



Summer 2014



Do you recognize this courthouse?

See answer on page 6.

Introducing Joe Baumann, MSC General Counsel



For Joe Baumann, the stage is a court and the court is a stage. An accomplished actor in his spare time, as general counsel for the Michigan Supreme Court, Baumann is a relentless advocate for the interests of Michigan's judiciary. In this role, he is the liaison on litigation issues for the trial courts and serves as primary legal counsel to the justices, judges and staff of the Supreme Court, Court of Appeals, and State Court Administrative Office.

"Serving as counsel to the Supreme Court is the big time when it comes to practicing my craft as a lawyer," Baumann said.

A magna cum laude graduate of Thomas M. Cooley Law School in Lansing, Baumann puts his legal knowledge and government experience to work as liaison between the court and the legislative and executive branches. In that role, he helps the court interact with other institutions of government and zealously defends the independence of the judiciary.

Baumann serves as a problem-solver and helps the courts come up with solutions to avoid potential issues. For example, when judges and courts are sued, they call Baumann, who gives ethical and substantive law-related advice to the judges and staff. He also supervises the Supreme Court administrative counsel and efforts to improve court rules. Baumann's wide legal repertoire even includes working with the State Board of Law Examiners to make sure that candidates passing the exam are competent to practice law in Michigan.



"I always assumed I would be a lawyer because my father was a lawyer," Baumann recalls. That ambition made Michigan State University's James Madison College a great choice close to home and one that helped him hone his skills as a writer. While at Michigan State, Baumann got his start in state government as a legislative aide for House Appropriations Chairman, Representative Terry Geiger.

Originally from Edwardsburg, Michigan, Baumann now lives in DeWitt but his favorite place is on the stage. He has performed in 18 shows in the last five years on stages across mid-Michigan, ranging from the ill-fated British polar explorer Robert Scott in a production of *Terra Nova* to the hilarious accused murderer Richard Hannay in *39 Steps*.

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Introducing Joe Baumann

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Baumann has been involved in theater since he was 10 years old, but he ultimately decided that an acting career might not provide a steady enough life and he hoped that as a lawyer, he could perform in a different way – for judges and juries. While his legal career took him into private practice for Dykema Gossett PLLC and away from daily interaction with judges (and any communication to juries), Baumann says he got back into theater because he needed a hobby during the long hours of private practice. Before working for the Supreme Court, Baumann served as the Majority Legal Counsel for the Michigan House of Representatives. There, he helped write legislation that, he says, helped contribute to Michigan’s economic turnaround. He speaks fondly of his time in the legislature as an incredible opportunity to affect real change for Michigan families and Michigan’s future.

Baumann also spent seven years—in both the Engler and Granholm administrations—as a special assistant to the director, executive assistant to a deputy director, legal analyst, and assistant legal counsel in the Michigan Department of Community Health where he analyzed and provided advice on issues related to the state’s social safety net programs including Medicaid, mental health confidentiality, and public health preparedness.

Baumann has been advising the Supreme Court for over a year and very much enjoys being part of the Court’s leadership team. While he is unsure what the future holds, “as long as Broadway doesn’t call, I’m ready for a long run.” ■

FAQ: DNR Executed/Revoked by a Guardian

By Robin Eagleson, Trial Court Services Management Analyst

Was the Michigan Do-Not-Resuscitate (DNR) Procedure Act amended?

Yes. The amended act (MCL 333.1051-MCL 333.1067) became effective February 4, 2014.

What is a DNR Order?

A do-not-resuscitate order is “a document executed under this act directing that, if an individual suffers cessation of both spontaneous respiration and circulation in a setting outside of a hospital, resuscitation will not be initiated.” MCL 333.1052(f).

Who may complete a DNR Form?

An individual who has been appointed as a guardian under EPIC may execute or revoke a do-not-resuscitate (DNR) order on behalf of an individual. MCL 333.1053a(1).

Who must sign the DNR order?

The ward’s guardian, the ward’s attending physician, and two witnesses 18 years of age or older, at least 1 of whom is not the ward’s spouse, parent, child, grandchild, sibling, or presumptive heir. MCL 333.1053a(2).

How will someone know that a DNR order has been executed?

An DNR identification bracelet may be placed on the ward’s wrist. A DNR identification bracelet must possess features that make it clearly recognizable as a DNR identification bracelet including, but not limited to, the bracelet being imprinted with the words “DO-NOT-RESUSCITATE ORDER”, the name and address of the declarant, and the name and telephone number of the declarant’s attending physician, if any. This bracelet must only be worn while the DNR order is in effect. Once the DNR is revoked, or otherwise not in effect, the bracelet must be removed immediately. MCL 333.1057.

What if someone does not agree with the execution of the DNR order?

A declarant may revoke an order executed on his/her behalf at any time and in any manner by which he or she is able to communicate his or her intent to revoke the order. MCL 333.1060.

How does someone have an executed DNR reviewed by the court?

If a person interested in the welfare of the ward has reason to believe that an order has been executed contrary to the wishes or best interests of the ward, the person may petition the probate court to have the order and the conditions of its execution reviewed. If the probate court finds that an order has been executed contrary to the wishes or best interests of the ward, the probate court shall issue an injunction voiding the effectiveness of the order and prohibiting compliance with the order. MCL 333.1059.

Contact Robin at eaglesonr@courts.mi.gov or 517-373-5542. ■

Family Division Management Assistance

By Kristen Getting, Deputy Court Administrator and Referee, 37th Circuit Court, Calhoun County

After learning that the Legislature permanently eliminated one of Calhoun County's two probate judge seats, court administrators viewed the change as an opportunity to evaluate all family division procedures. The chief circuit and probate judges jointly requested that the State Court Administrative Office conduct a management study, focusing on family division operations. The court hoped to streamline the organization to improve efficiency without compromising services or overburdening staff.

SCAO assembled an analyst team to conduct the study. The team initially met with the chief judges and court administration to discuss the focus of the study and together they identified general areas to review: 1) judicial resources, 2) administration, 3) case management, 4) file management, and 5) records management.

The SCAO team divided the study into three phases. First, the court sent numerous documents to SCAO for their review. Using those the documents, the team developed a project plan and completed a preliminary data analysis. From there, key personnel were identified for personal interviews at the courthouse.

Before SCAO arrived for personal interviews, the chief judges held an all-staff meeting where they described the study and encouraged full cooperation with the SCAO team. The judges emphasized that the study's purpose was not to cut jobs, but to review and improve our current organization, processes, and procedures.

During the second phase, the SCAO team spent three days in individual meetings with family division personnel. They emphasized that comments were confidential and encouraged employees to share their thoughts and ideas about any job-related matters. The interviews included judges, referees, administrative staff, and support staff. The SCAO team also reviewed a sample of court files for compliance with statutes, court rules, and case file management standards. Initially, court personnel were a little anxious about opening up to the SCAO team, but most were very candid. Staff discussed current concerns and also proposed new ideas.

The final phase of the study was a comprehensive analysis of the data gathered. The SCAO team called court personnel and asked follow-up questions. Additional written documentation was sent for inclusion in the report. After digesting hours of interviews and thousands of documents, the management study team prepared a report and presented it to the chief judges and court administration.

The final report was 45 pages long and very comprehensive, including 99 individual recommendations. The gravity of the recommendations varied from immediate and urgent to long-term goals. The team recommended restructure of the judge/referee assignment system and realignment of court administration. The study also identified systemic issues, such as a lack of uniformity in handling certain hearings and a lack of written procedures.

Once again, the chief judges assembled all circuit and probate court staff for a meeting. The judges announced some of the larger organizational changes and identified six work-team leaders. The chief judges and court administrators determined that all of the SCAO recommendations were going to be implemented unless managers presented a compelling reason against implementation. With that in mind, the court moved forward with all 99 of the suggested changes.

Administration created a master spreadsheet of all of the recommendations and assigned each to a lead worker. The worksheet included an estimated completion date and a general approach. The lead workers also developed more detailed written work plans for each change. Every month, the spreadsheet and work plans were updated and reported to court administration.

One year later, nearly all of the recommendations were implemented. The few that were not were either deemed too expensive for the current budget or too comprehensive to be completed in a year. The most noticeable result was the realignment of court administration and the referee unit. The new administrative organization permits different units within the family division to work together under unified supervision. The court also created written procedures to assist with training new employees and cross-training current employees.

The lead workers invested a lot of time in the family division overhaul. Staff responded with a mix of anxiety, anger and applause. In the end, the entire family division staff was restructured and the workload redistributed. The feedback and direction from the management study provided the court with a different perspective and a starting block for some major changes. While some of the suggested changes didn't work, the majority improved internal and external operations and the court is better able to serve the public. ■

Family Division of 28th Circuit Court Teams with Michigan Department of Natural Resources

By Randy Adlam, Juvenile Officer, 28th Circuit Court Family Division (Wexford County)

Impact Youth Services, LLC, is the service provider for intensive probation in Wexford and Missaukee counties. Since 2007, Impact has teamed up with the Michigan Department of Natural Resources Fisheries Division to provide a unique community service option for probationers. Judges Kenneth Tacoma and Charles Parsons, the presiding family division judges for Wexford and Missaukee counties, have a shared vision about the importance of employability skills being taught to young offenders. Breaking from traditional types of community service work sites was very important in assuring a consistent learning environment for youth to develop valuable work skills. The program has been mutually beneficial to both the MDNR and youth assigned to the program.

Youth who have been assigned community service work by the courts are supervised by Impact Youth Services staff while they work side-by-side with Fisheries Division biologists and technicians. Participants do lawn care and building maintenance at the fishing weirs on the Little Manistee River, and perform fish population/habitat surveys on area streams. All of the work is done with MDNR personnel and the youth are constantly supervised by MDNR and Impact staff. The goal is to provide a classroom-type setting for learning and a "real-life" work experience. MDNR personnel have proven to be excellent field teachers and are able to provide a "summer science class" without participants even realizing how much they are learning. Youth are evaluated daily on a 100-point scale and must achieve a score of 80% for full credit. Youth who complete their court-ordered hours are given a chance to continue working beyond the completion of their mandated service and can earn reward points that result in Impact Youth Services making payments toward their court fines and costs.

In addition to helping the Fisheries Division, Impact has coordinated a forest clean-up partnership with MDNR Forest Resource Division. The MDNR provides funding through the Adopt-a-Forest program for land-fill tipping fees. Probationers pick up trash at GPS-identified sites provided by MDNR conservation officers. The garbage is transported by Impact Youth Services personnel to the Wexford County Landfill. The MDNR reimburses Impact for the tipping fees paid to the landfill. The results have been impressive:

- Probationers have removed about 25 tons of refuse from the state and national forests in Wexford and Missaukee counties.
- When this program started, Wexford County had the most dump sites of any of Michigan's 83 counties. It now ranks 7th best statewide.

The final component of the program is the end-of-summer reward trip. Youth who exhibit exemplary effort and work extra hours have a chance to earn an end-of-summer reward trip that is voted on by the participants. Options include charter fishing on Lake Michigan and professional sporting events. This component has proven to be very popular, and youth have a chance to do something that they otherwise may have never been able to do. More importantly, participants are rewarded for making lifestyle changes and for putting forth selfless effort to help make the community a better place for everyone.

If you have questions about this program or how to replicate it in other areas, contact Scott Watson, Impact Youth Services, LLC, at 231-920-6956. ■



Impact probationers assist MDNR fishery division at the Little Manistee Egg-Taking Weir.



Impact probationers assist MDNR fisheries employees with small stream trout survey.

Concurrent Jurors: A Reflection on Successful Cooperation Between Courts

By Jerry Celmer, Jr., Court Administrator, 31st Circuit Court (St. Clair County) and
Barbara A. Menear, Court Administrator, 7th Circuit Court (Genesee County)

“Courts should conduct jury trials in the venue required by applicable law or in the interests of justice.”

What does this mean?

It sounds like a catechism question...and it gets to the heart of the right to jury trial that we cherish. The American Bar Association in a 2005 publication identified this as one of 19 principles that define our fundamental aspirations for the management of our jury system.

In criminal cases, the ABA requires that “a change of venue should be granted whenever there is a substantial likelihood that...a fair trial by an impartial jury cannot be had.” The ABA principle goes further to suggest that “courts should consider the option of trying the case in the original venue but *selecting the jury from a new venue.*”

In addition to all other considerations relevant to the selection of the new venue, consideration should be given to whether the original venue would be a better location to conduct the trial due to facilities, security, and the convenience of the victims, court staff, and parties. This should be balanced against the possible inconvenience to the jurors.”

How is this accomplished?

In 2012, a murder trial in the 7th Circuit Court (Genesee County) provided an opportunity to put this principle to a practical test in Michigan. *People v Hayes* generated more than a year of intense media scrutiny, routine “tweets” from the prosecutor, a Facebook page, and more than 50 YouTube links. The case involved accusations of child abuse and the death of a four-year old child.

The intensity of pre-trial publicity in this case was further evidenced by the introduction of legislation that became known as *Dominick’s Law*, increasing penalties for child abuse and the failure to report child abuse.

The child’s mother was separately charged in the incident and pleaded guilty to child abuse and 2nd degree murder. Her testimony was critical to the Hayes prosecution. Other incarcerated witnesses were expected, based upon the nature of the testimony. Specialized medical testimony was also involved, as the victim died at a hospital after being removed from life support. After Genesee County scheduled the case for trial and spent five days in jury selection without success, the need for a different approach was apparent.

Initially, a discussion between chief judges and court administrators focused on the idea of a venue change, with the judge from Genesee County conducting the entire trial in the St. Clair County Courthouse. There seemed to be potential for this approach. St. Clair County was willing and able to arrange courtroom space and to summon the necessary citizens for jury duty. Despite all of the pre-trial publicity in Genesee County, the media markets were different in St. Clair County.

After considering cost and convenience, the venue was changed to St. Clair County for jury selection, closing arguments, and jury deliberations. The jury was transported to Genesee County for the testimonial portion of the trial. Judge Richard B. Yuille, Chief Judge of the Genesee County Circuit Court, presided and cited several advantages in proposing this alternative:

1. Retaining the testimonial portion of the trial in Genesee County minimized the inconvenience to the St. Clair County Court. A courtroom was needed for fewer days.
2. Security for the defendant and incarcerated witnesses was ideal in Genesee County, as the courthouse and jail are connected.
3. Victim families, witnesses, attorneys, and other interested parties were subject to less travel.
4. Costs were contained since only transportation expenses for jurors were be an additional factor.

Following some initial skepticism, the plan proceeded. Trial dates were set; logistics and details were considered. Jury transportation was arranged by Genesee County. A small passenger van was hired from a private company to comfortably transport the 12 jurors, 2 alternate jurors, and a Genesee County deputy to and from St. Clair County.

Concurrent Jurors

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St. Clair County provided a courtroom, judicial chambers, courtroom security, court reporting, and jury staff. Judge Daniel J. Kelly, Chief Judge of the St. Clair County Circuit Court, provided his courtroom for the trial. Judge Yuille visited the St. Clair Circuit Court prior to the trial to review the arrangements. The judges worked well together and forged a professional bond that continues.

The St. Clair County Prosecutor assisted with office space and ultimately some audiovisual support. Sheriffs from both counties were involved in planning for prisoner transport. Administrators in both courts handled media arrangements and on-site logistics for their respective locales. Cameras were authorized in the courtroom under a pooling arrangement, restricted to only closing arguments. From jury selection to verdict, the trial was conducted over eight days in January 2012.

Despite the unsettling nature of the trial testimony, it was a positive, successful case management experience for both courts

What did we learn from this experience?

Change of venue is a relatively rare event in most jurisdictions, typically the result of intense pretrial publicity. We can expect an increasing number of cases where change of venue will be considered due to the expansion of social media and media technology in general. When change of venue does occur it tends to be an all-or-nothing proposition, with the entire court process moved to another jurisdiction. In Michigan it has been a consequence of unexpected trial events.¹

In the Genesee County case, planning for a change of venue and considering creative options led to improvements in court efficiency and helped control costs.

Security and expectations of participants including jurors, witnesses, parties, media, and the public were better managed in the high-profile case. Cooperation was easy to achieve, both within and between jurisdictions, where planning occurred. A pre-trial visit by the presiding judge cemented the relationship between jurisdictions and enhanced coordination during the trial. Attention to the details of transportation and parking minimized the inconvenience to jurors. The resources of each jurisdiction were best used to resolve this case.

Flexibility, innovative thinking, and broad-based cooperation are possible and necessary in our age of reduced court resources. Most importantly, this example illustrates that this can be done while faithfully adhering to cherished principles such as those outlined in the ABA vision for our American jury system.

Want to know more? Contact Jerry Celmer at 810-985-2031 or Barb Menear at 810-424-4355. ■

¹ A 2010 criminal case in the 45th Circuit Court (St. Joseph County) was moved to the 9th Circuit Court (Kalamazoo County) for trial and moved back to complete jury deliberation due to space constraints after testimony was taken and the jury had deliberated four days.

Questions? Comments? Suggestions?

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Language Access Assistance

By Jennifer Thom, Court Administrator, 51st District Court (Waterford)

At first glance, I really didn't expect the new language access court rules to impact us much here at the 51st District Court. After all, we already have a great system in place to accommodate our, primarily Spanish-speaking, limited-English proficiency (LEP) demographic, we use Language Line to translate for arraignments, and we will secure an interpreter for all other courtroom proceedings. Our "go to" interpreter has been on SCAO's list of interpreters since 2008, and our judges are great about making a record and swearing her in.

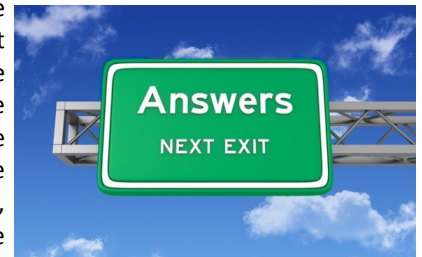
We even have the probation angle covered. Waterford is within close proximity to several substance and mental health providers equipped to service Spanish-speaking clients, so we aren't lacking in community resources, and when we work with LEP clients who speak a language other than Spanish, we use the Substance Abuse and Mental Health Services Administration's ([SAMSHA](#)) treatment facility locator to find providers equipped to service the necessary therapeutic treatment. Done and done!

Initially, to my mind, we've been doing what needs be done for years; this was simply going to be a matter of formalizing our current procedures through a local administrative order (LAO), implementing a few new ones, and giving our financial clerk, Janette, the title of language coordinator. After all, she's been responsible for coordinating interpreters, and now she'll have a title to go along with her duties. We've got this; we're golden.

But as I dug in a little deeper, I began to really consider what the court experience would be like for someone whose primary language wasn't English. I thought about what it's been like for me when I've been in a country where I didn't speak the language or understand the customs. Then it hit me, these individuals may not only be limited in their ability to understand the language, but quite likely unfamiliar with our justice system as well. I realized this is much bigger than formalizing standards and procedures. This is a matter of due process and equal protection. This is big!

I took part in one of the language access webinars conducted by SCAO and found it very helpful. We were given an overview of the intent and parameters of MCR 1.111 and 8.127, and gained a new perspective on the need for certified and qualified interpreters. Prior to that, I really hadn't given much thought to the magnitude of the role or the level of skill required to perform court interpretation. We were referred to the language access portion of the One Court of Justice website for more information on interpreter certification, testing and verification, and suggested voir dire questions for judges to use. The webinar also covered the language access LAO, and we were given tips on language access resources like "I Speak" cards, which are user friendly and free, and learned why Google translate is not an acceptable language resource option. During the question and answer portion, I was struck by two things: first, the range of experiences and challenges faced by courts and, more importantly, there are answers and solutions to the questions being raised.

As courts, it often seems as if we're on our own island and we feel the challenges of our organization are ours alone. Although we are each different in our composition, fundamentally we're the same and there is a wealth of collective knowledge and experience to draw from. Just as was the case with the language access challenges, there are resources and answers available to those who ask the questions. ■



Top 10 Court Websites



2014 WINNER

Our [One Court of Justice website](#) has received a "Top 10" award from the *Forum on the Advancement of Court Technology* (FACT). The award is "in honor of courts who are working hard to extend and expand access to public records, court services and information online."

Kalamazoo Reducing Recidivism Through Youthful Offender Transitions Program

By Jai Khatri, Youth Transitions Coordinator, Kalamazoo County

Kalamazoo County created and implemented the Youthful Offender Transitions Program (YOTP) in 2006 with the help of a seven-year seed grant from W.K. Kellogg Foundation. The program was designed to address several issues, especially the number of youth entering the adult court system at high rates after their release from juvenile probation services. YOTP provides a platform for this underserved population of young offenders who receive support and guidance as they transition into adulthood. Traditionally, these kinds of transitional supports have been informal and/or short-lived for youth who exit the juvenile justice system.

YOTP is designed to serve up to 15 youth between the ages of 16-21 years and also serves as a drop-in center for youth who are seeking referrals for services or need help with resumes, filling out applications, or other support services. YOTP uses evidence-based approaches such as client-driven planning and community resource screening teams to support our enrolled youth. Youth who enter the program at ages 16 or 17 can receive up to 24 months of services, and older enrollees can receive up to 18 months of services. YOTP strives to help program participants achieve their goals in the areas of wellness, education, employment, and housing.

The YOTP office is housed in downtown Kalamazoo, away from the courts, to encourage voluntary participation and reduce the stigma of court involvement. We are committed to assisting youth in their applications for set aside motions so that their criminal records can be cleared when possible. Such criminal records are a huge barrier for youth when seeking employment, housing, aid for certain educational programs, and volunteer opportunities. Removing this barrier, when appropriate, can help set participants on a track to success in life. At a recent Systems of Care Conference in Kalamazoo where YOTP youth had the opportunity to present their stories, this was a recurring issue. New legislation and standards regarding youth criminal histories recently passed by the Legislature with the help of the Michigan State Police will be useful to many youth who are making efforts to change and become productive members of our communities.

YOTP's working office is a space where program participants and walk-in youth can come to use the computers to apply for jobs, work on resumes, and print necessary forms. Many youth-in-transition use the office to send and receive e-mail and telephone communications until their housing situations are stabilized. The YOTP coordinator works with each participant individually to define his/her plan and to assist him/her with applications for school, work, and assistance as needed. Mock interviewing and mentoring sessions take place at the office, as do weekly group meetings. These group meetings usually include a community-based speaker who volunteers his/her time to talk with the program participants. Over the past 18 months, dedicated community volunteers have presented at group meetings on topics such as credit reports, yoga, entrepreneurship, and making a living as an artist. In addition to these volunteers, YOTP has ten program mentors that have been matched with our participants to offer support as they navigate through the adult world.

Client-centered planning and the use of flexible funds to support youth goals are two of the most critical pieces of the program's design. Through client-centered planning, youth learn the crucial skill of short- and long-term goal setting and begin to take ownership of their futures. Participant goals are updated every two months so that youth can see how their efforts are paying off and reevaluate as necessary. YOTP allocates a significant portion of its operating budget toward a 'flexible funds' account. For example, participants receive a monthly bus pass to help them to get to their jobs, schools, and other appointments. Depending on their level of participation and commitment to the program, young people have been able to purchase lap tops for higher education, school supplies, interview clothing, driver's education classes and road testing, application fees for GED and ACT testing for colleges, and other needs related to their goals.

YOTP has served more than 155 participants since its implementation in 2006. Currently funded by the Kalamazoo Community Foundation, we are seeking additional funds to keep this amazing program going in the future. YOTP receives in-kind support from Kalamazoo County in the form of administrative, managerial, and technical support. A current snapshot of our 15 program participants is very promising, with 5 enrolled in higher education, 1 enrolled in a trade school, 3 working toward their GEDs, and 7 employed. Many others are on their way to meeting these goals. Our last program evaluation shows a recidivism rate significantly lower than state and national averages. We are very proud of our YOTP participants and pleased with the impact that this program has made on our community.

Questions? Contact Jai Khatri at jkkhat@kalcouny.com or 269-978-0767. ■

The Judicial Data Warehouse

By Angela D. Sorrells, J.D., Business Analyst, Michigan Judicial Data Warehouse

The Judicial Data Warehouse (JDW) is a centralized repository of statewide court data. As court administrators and clerks, you have access to a wealth of information in the JDW. The cases in the warehouse originate in circuit (civil, criminal, and juvenile), district, and probate courts across the state of Michigan.


If your court submits data to the JDW, there are numerous reports available that will aid in your collections efforts, as well as your docket management. The most widely used reports are ones that match your court's data to data from both the Michigan Department of Corrections (MDOC) and the Michigan Department of Community Health (DCH).

The data we match with MDOC allows you to quickly and easily run a report that produces a list of individuals who owe your court money, along with their current address as reported by MDOC. This enhances collections efforts against those individuals who may be in the MDOC system on your case or one originating in another court. If they report to their probation or parole officers, the JDW can provide you with their most up-to-date home address. If they are in prison, the prison address is available for garnishing prisoner accounts. MDOC data is updated daily and is reflected in these advanced reports.

The same type of data matching is done with DCH, producing reports containing data from your court combined with data from vital records at DCH. With the click of a few buttons, you can produce a list of deceased individuals who owe your court money or who have an open or pending case. You can also see who is deceased and has an outstanding warrant on one of your cases, allowing you to address those outstanding warrants under court and SCAO policy.

In addition to the reports mentioned above, you may also search an individual's court history. This feature is available to all courts, regardless of whether you submit data to the JDW. The case information includes case numbers, party information, charges (original and amended), assessments, payments, etc. Need information to complete your Presentence Investigation Report? The JDW can help. Need to know if a defendant is following the conditions of probation? The JDW can help with that, too.

The options for data analysis, collections, and docket management are endless. For more information about the JDW including how to gain access or register for training, please visit <https://nsa.courts.michigan.gov/>. You may also email the JDW Help Desk at jdw_helpdesk@courts.mi.gov with questions. ■



Michigan's Judicial Data Warehouse (JDW)



Eaton County's Eviction Diversion Program: A Potential Win for All Parties

By The Honorable Julie Reincke, 56A District Court (Eaton County)

In the words of Maya Angelou, "The ache for home lives in all of us, the safe place where we can go as we are and not be questioned." Almost every person strives for that safe place of home. However, for those who are facing the eviction process, this safe place feels as if it is being ripped away from them. The Eaton County District Court is attempting to reduce evictions and help people stay in their home. This is why the Monday morning landlord-tenant docket is so important to the court. This docket, established in 2014, is a kinder and gentler form of docket known as the eviction diversion program. The growing epidemic of evictions in Eaton County called for prevention and the goal of this program is to assist tenants to remain in their homes, if eligible for assistance, and to process these landlord-tenant cases without detrimentally affecting the tenant's credit records.



Our court is privileged to have the wonderful and enthusiastic assistance of the Thomas M. Cooley Law School, the MSU Law School Legal Clinic, the Eaton County Department of Human Services, and the Housing Services of Eaton County in this program. Their dedicated support is what made the eviction diversion program possible. We have also greatly appreciated the landlords and attorneys within the community who have worked with our program to make it such a success.

Along with the advantages that come with this program, we must also remember the issues that we continually face with this very difficult subject. One particular issue is repeated education that tenants do NOT need a judgment to receive assistance. A summons is perfectly adequate for them to apply for help; it is, therefore, in the tenant's best interest to act on their application for benefits without entry of a judgment. We have found that many landlords, tenants, and providers have not understood this in the past.

So how does this program work? When tenants are served with eviction papers, they also receive a notice telling them about our program and what they must do to get the help they need. At the time of the eviction hearing, attorneys and interns from both of our local law schools are available to provide counsel to the tenants. Representatives from the Michigan Department of Human Services and the Housing Services of Eaton County are also present to assist. Instead of only being able to talk with the attorney for the landlord, with our program tenants can now discuss their legal issues with a legal professional not aligned with the landlord. They can also sit down with the two agencies in Eaton County to receive assistance to catch up on their rent and remain in their home. If the negotiations are successful, the parties agree upon a conditional dismissal, which is signed immediately by the judge and contains all of the terms necessary to conclude the case, regardless of whether the tenants are actually able to make the payments necessary to catch up on past due rent.

Just as in a judgment, the deadline for payment and avoidance of eviction is ten days, thereby not injuring the landlord's rights. If a money judgment is relevant, those terms are included in the conditional dismissal. Most of the cases that are resolved this way end successfully for both parties – with the landlord paid and the tenant being allowed to stay in their home with no judgment entered against them to blemish their credit rating. Occasionally, the settlement does not result in the hoped for payment. In these cases, the landlord may provide a default, a judgment, and a writ on the tenth day following the entry of the conditional dismissal to finalize the case and regain possession. This may include a money judgment if those terms were agreed upon in the conditional dismissal.

The eviction diversion program has the potential of being a "win" for all parties; landlords are more likely to receive past due rent and keep occupancy within their property and tenants minimize the damage to their credit rating, receive legal assistance, apply for prompt benefits, and remain in their homes. Through the Eaton County District Court diversion program, we have found that many cases resolve themselves outside the courtroom, lessening the financial and emotional strain on the landlords and tenants and the strain on the court's docket. We have also found that the assistance we receive from the law schools and the agencies is not only invaluable to us but also to the students. Law school students receive valuable experience counseling clients and appearing in the courtroom under the guidance of a licensed attorney.

So what is the bottom line? Much of the confusion and fear in our courthouse on Monday mornings has been relieved, our community members receive the assistance they need, and most importantly, are allowed to remain in their home.

Contact Judge Reincke at 517-543-7500 if you'd like additional information. ■



Cutting Litigation Costs in District Court: Mediation Can Help

By Lawrence P. Schneider, J.D.

I have practiced law since 1977, and much of that practice has involved circuit or federal court litigation. The amounts at stake were occasionally in the millions (e.g., when I have represented MDOT in eminent domain cases). When the stakes are that high, clients understand that their legal costs will also be high.

Yet, I also have had many civil cases in district court where the stakes were often lower than a monthly bill to one of my federal or circuit court clients. Although the court rules suggest that full-blown discovery is not contemplated in district court, I have found that judicial policies vary widely. Some district judges allowed open discovery while some allowed limited discovery. In many situations, the cases were ordered to case evaluation. I found this frustrating because clients with \$10,000-\$15,000 claims could face legal bills approaching that amount by the end of the case. Neither the winner nor loser is served by such an expensive system of justice.

A 2011 study commissioned on behalf of the State Court Administrative Office contained many fascinating findings; these two jumped out at me:

- The case evaluation award amount was accepted in 22 percent of the cases examined in the study. Only 2 percent were accepted within 28 days.
- Where mediation was held, nearly half of the cases (47 percent) were settled “at the table.” Ultimately, 72 percent of the cases that went to mediation were disposed through a settlement or consent judgment and without later using case evaluation or going to trial.

These numbers interested me because they affirmed my own experience as a case evaluator and mediator: given the choice, mediation is far more likely to result in settlement.

However, mediation continues to be underused in many district courts. Most parties select their own mediators, and a review of the hourly rates for mediators listed by the various circuit court ADR offices reveal that many of the best known, experienced and successful mediators charge in excess of \$300 per hour. While they are well worth the cost, assuming a half day of mediation at a minimum, this can tack on \$600 or more of additional cost to each side in a district court case. Attorneys will continue to be cautious about selecting mediators whose names they do not recognize even though the mediators only charge \$100 per hour or less. Many of these “unknowns” are (or will be) fine mediators but need to develop a reputation as effective mediators in the legal community.

This is where Michigan’s Community Dispute Resolution Program (CDRP) centers can be of help to all involved persons. Mediation services at the centers are available at a nominal rate or are free if parties are unable to pay. The fee generally depends upon the amount and nature of controversy in the case. Although the parties do not have the ability to choose their mediator, I have found that the staff at each center goes to great lengths to match the nature of the case to its list of experienced volunteer mediators. When new mediators are selected, they are often part of a co-mediation with an experienced mediator.

I have heard that some attorneys (and mediators) are concerned that the CDRP centers mediate cases that should be mediated by those who practice mediation for a living. But as an attorney who has mediated for many years at a mid-range hourly rate, I have never wanted to mediate district court and other modest value cases, even if the parties were willing to pay me. Why? Because I always ended up cutting my fee. Moreover, those “little” cases have often proved to be the most challenging cases of all! The CDRP centers agree that it should have no role in those major disputes that involve paying clients fighting over substantial sums of money. Those cases should be handled by those persons who mediate as all or part of their livelihood.

When attorneys who find themselves embroiled in a \$7,500 district court case cannot justify paying a mediator a substantial fee, a CDRP center is an ideal choice. Many top mediators volunteer for one or more CDRP centers. The volunteer roster consists of many experienced and well-known mediators. Attorneys who seek assistance from the centers can rest assured that they will be assigned a competent mediator.

Mediation Can Help

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More and more district judges are referring cases to the CDRP centers; however, there are still many cases that are languishing on the district court dockets around the state as the attorney churns away at discovery, preparing for trial, etc. Adding another significant cost to the case is just not an option for their clients.

To be clear, not every case is appropriate for mediation. Moreover, not every case should be mediated before discovery has been undertaken or completed. The attorneys on the case are in the best position to make that call. But attorneys who want to make an effort to save their client attorney fees in modest value cases should certainly consider mediating through a CDRP center. Although mediation may reduce an attorney's fee if the case is resolved early, chances are the client will be back and will give the attorney's name to others. It all works out in the end!

Contact information for the CDRP center serving your area can be found at the Michigan Supreme Court's interactive CDRP site: <http://courts.mi.gov/administration/scao/officesprograms/odr/pages/find-a-mediation-center.aspx>.

Lawrence P. Schneider is a 1977 cum laud graduate of Cooley Law School. He is currently President of the Board of Directors of the Resolution Services Center of Central Michigan. In addition to serving as a private mediator in employment cases in private practice and as a volunteer mediator for the RSCCM, he also serves as general counsel to the Michigan State Police Troopers Association.



“A perfect summer day is when the sun is shining, the breeze is blowing, the birds are singing, and the lawn mower is broken.” ~James Dent